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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

10 EDWIN CASIMERE, an individual
11
12 Plaintiff,

13 v.

14 INTERNATIONAL LINE
15 BUILDERS, INC., a corporation,
16 JIMMY QUINONEZ, an individual;
and DOES 1 through 100, inclusive,
17 Defendant.

Case No. 5:23-cv-02230-WLH-SHKx

**ORDER GRANTING PLAINTIFF'S
MOTION FOR REMAND BUT
DENYING PLAINTIFF'S REQUEST
FOR ATTORNEYS' FEES [13]**

18 This matter comes before the Court on Plaintiff Edwin Casimere's ("Plaintiff")
19 Motion to Remand and Request for Attorneys' Fees (the "Motion"), filed November
20 30, 2023. (Mot. to Remand, Docket No. 13). Defendants International Line Builders,
21 Inc. ("ILB") and Jimmy Quinonez ("Quinonez") (collectively, the "Defendants") filed
22 their Opposition to Plaintiff's Motion (the "Opposition") on December 14, 2023.
23 (Docket No. 17). Plaintiff filed his Reply in Support of the Motion (the "Reply") on
24 December 22, 2023. (Docket No. 18). This matter is fully briefed.

25 No party filed a written request for oral argument stating that an attorney with
26 five years or less of experience would be arguing the matter. *See* Standing Order for
27 Newly Assigned Civil Cases at 15. Further, pursuant to Federal Rule of Civil
28

1 Procedure 78 and Local Rule 7-15, the Court finds this matter appropriate for decision
 2 without oral argument. The hearing calendared for January 5, 2024, is **VACATED**,
 3 and the matter taken off calendar.

4 For the reasons discussed below, the Court **GRANTS** Plaintiff's Motion but
 5 **DENIES** Plaintiff's request for attorneys' fees.

6 **I. BACKGROUND**

7 **A. Procedural Background**

8 Plaintiff is a resident of California who was formerly employed by ILB as a
 9 "Transportation Tech" from August 2017 until October 28, 2022. (Declaration of
 10 Margeaux M. Pelusi ("Pelusi Decl."), First Amended Compl. ("FAC"), Docket No. 1-
 11 3 ¶ 1, Exh. B). Defendant ILB is incorporated in Delaware and has its principal place
 12 of business in Oregon.¹ (RJN, Docket No. 1-8 ¶ 1, Exh. A). Defendant Quinonez,
 13 Plaintiff's former supervisor at ILB, is alleged to be a California resident. (Docket
 14 No. 1-3 ¶ 3).

15 On June 28, 2023, Plaintiff filed this action in Riverside County Superior Court
 16 against Defendants and Does 1 through 100. (Pelusi Decl., Compl. Docket No. 1-2,
 17 Exh. A). The initial Complaint alleged the following eight causes of action for
 18

19 ¹ ILB filed a Request for Judicial Notice ("RJN") in conjunction with its Notice
 20 of Removal ("NOR") requesting that the Court take judicial notice of the business
 21 entity search results for ILB on the California Secretary of State's website. (RJN,
 22 Docket No. 1-8, Exh. A). Plaintiff does not oppose this request. A court "must take
 23 judicial notice if a party requests it and the court is supplied with the necessary
 24 information." Fed. R. Evid. 201(c). That is, the party requesting judicial notice must
 25 show that the fact "is not subject to reasonable dispute" because it is either generally
 26 known or "can be accurately and readily determined from sources whose accuracy
 27 cannot reasonably be questioned." *Lee v. City of Los Angeles*, 250 F.3d 668, 689 (9th
 28 Cir. 2001) (quotation omitted); Fed. R. Evid. 201(b). The Court **GRANTS** ILB's
 RJN as the California Secretary of State's website is a government publication and
 matter of public record, which is not subject to reasonable dispute. *See e.g. L'Garde,*
Inc. v. Raytheon Space & Airborne Sys., 805 F. Supp. 2d 932, 938 (C.D. Cal. 2011)
 ("[T]he accuracy of the results of records searches from the Secretary of State for the
 State of California corporate search website can be determined by readily accessible
 resources whose accuracy cannot reasonably be questioned.").

various state law claims related to Plaintiff's alleged wrongful termination from ILB: (1) Violation of the California Family Rights Act; (2) Illegal Retaliatory Discharge in Violation of California Labor Code §§ 233, 246.5; (3) Wrongful Termination in Violation of Public Policy; (4) Defamation; (5) Failure Provide Meal and Rest Periods under California Labor Code §§ 226.7 and 512; (6) Failure to Pay all Wages Due Upon Discharge under California Labor Code §§ 201–203; (7) Failure to Maintain Records under California Labor Code §§ 226 and 1174); and (8) Violation of California Business & Professions Code § 17200. (*See generally id.*).

On September 14, 2023, before Defendants filed a response to the initial Complaint, Plaintiff filed a FAC adding a ninth cause of action under the California Private Attorney's General Act, California Labor Code § 2699, *et seq.* (Docket No. 1-3). On October 27, 2023, Defendant ILB filed an answer in Riverside County Superior Court and removed the case invoking this Court's diversity jurisdiction pursuant to 28 U.S.C. § 1332. (*Id.*, Exh. E). Defendants contend that ILB is a foreign corporation for purposes of diversity jurisdiction and Quinonez's citizenship is irrelevant because he is a "sham defendant" added to destroy the diversity of parties. (NOR, Docket No. 1 at 4).

On November 30, 2023, Plaintiff filed the instant Motion. Although Defendant Quinonez was named in five causes of action, Plaintiff argued only that the FAC's fourth cause of action for defamation defeats Defendants' "sham defendant" contention.

B. The Defamation Claim

With respect to Plaintiff's fourth cause of action for defamation, the FAC alleges the following facts in relevant part:

12. For many months during Plaintiff's employment, QUINONEZ and several ILB employees who reported to QUINONEZ harassed Plaintiff and made false defamatory statements about Plaintiff's intelligence, work ethic and competence at doing his job. Despite Plaintiff's strong work ethic, QUINONEZ and his ILB employees

1 knowingly made false defamatory statements about Plaintiff being
2 incompetent.

3 13. Plaintiff complained to his supervisor QUINONEZ about the
4 defamatory statements and harassment and asked QUINONEZ to
5 act to stop the harassment and defamation.

6 14. Unfortunately, QUINONEZ did not care to end the defamation
7 and instead treated Plaintiff with scorn and hostility and in a cold,
8 curt and disdainful manner.

9 ...

10 51. Plaintiff is informed and believe [sic] Defendants, and each of
11 them, by the herein described acts, conspired to, and in fact, did
12 negligently, recklessly, and intentionally cause excessive and
13 unsolicited internal and external defamatory statements, of and
14 concerning Plaintiff, to third persons and to the community.
15 Defendants were negligent in failing to assess the truth or falsity
16 of the defamatory statements and/or made such statements with
17 knowledge that they were false. These statements were made by
18 Defendants by and through their managing agents, including but
19 not limited to, QUINONEZ.

20 52. These false and defamatory statements included, but were not
21 limited to, express and implied, accusations that Plaintiff was
22 terminated for substandard job performance and thus incompetent
23 to perform the duties of his position. Upon information and belief,
24 defamatory statements made regarding Plaintiff include
25 intentionally false statements made by QUINONEZ and other
26 employees of Defendants in or about August 2022 and later.

27 53. Those defamatory statements were made verbally and possibly in
28 writing and were communicated to employees of Defendants.
These and similar statements by Defendants, and each of them,
expressly and impliedly asserted that Plaintiff was an incompetent
employee. As described herein, and Defendants knew that such
statements were unsubstantiated and obviously false.

54. Defendants were negligent in failing to assess the truth or falsity
of their statements regarding Plaintiff. The defamatory statements
were false and also had false implications, such as the implication

1 that Plaintiffs work performance was so bad as to warrant
2 termination, and the implication that Plaintiff was not competent
3 to perform the work and a poor employee.

4 ...

5 56. While the precise dates of these statements are not known to
6 Plaintiff, he is informed and believes, the statements may have
7 started in or around August 2020 [sic] and continued to the time
8 of her [sic] termination by creating false claims regarding Plaintiff
9 for the improper purpose of giving the appearance that Plaintiffs
10 wrongful and illegal termination was justified.

11 57. These statements and/or publications were outrageous, negligent,
12 reckless, intentional, and maliciously published and republished
13 by Defendants, and each of them. Plaintiff is informed and
14 believes that the negligent, reckless, and intentional statements
15 and/or publications by Defendants, and each of them, were and
16 continue to be, foreseeably published and republished by
17 Defendants, their agents and employees, and recipients in the
18 community. Plaintiff hereby seeks damages for these statements
19 and/or publications and all foreseeable republications discovered
20 up to the time of trial, whether written or oral.

21 58. None of Defendants' defamatory statements and/or publications
22 against Plaintiff referenced above are true.

23 59. The above defamatory statements were understood as assertions
24 of fact, and not as opinion.

25 60. Each of the false defamatory per se publications set forth above
26 were negligently, recklessly, and intentionally published in a
27 manner equaling malice and abuse of any alleged conditional
28 privilege (which Plaintiff denies existed), since the publications,
and each of them, were made with hatred, ill will, and an intent to
vex, harass, annoy, and injure Plaintiff in order to justify the illegal
and cruel actions of Defendants, and each of them, to cause further
damage to Plaintiff's professional and personal reputations, to
cause him to be fired, to justify their firing. S

61. No privilege existed to protect any of the Defendants from
liability for any of these aforementioned publications or

1 republications.

2 62. As a proximate result of the publication and republication of these
3 defamatory statements by Defendants, and each of them, Plaintiff
4 has suffered injury to his personal and professional reputation
5 including suffering embarrassment, humiliation, emotional
6 distress, shunning, anguish, fear, loss of employment, and
7 employability, and significant economic loss in the form of lost
wages and future earnings, all to Plaintiff's economic, emotional,
and general damage in an amount according to proof.

8 (Docket No. 1-3 ¶¶ 11, 13–14, 51–54, 56–62).

9 II. LEGAL STANDARD

10 A defendant may remove an action from state court to federal court if the
11 plaintiff could have originally filed the action in federal court. *See* 28 U.S.C.
12 § 1441(a). Courts strictly construe the removal statutes, rejecting removal jurisdiction
13 in favor of remand to the state court if any doubts as to the right of removal exist.
14 *Nevada v. Bank of Am. Corp.*, 672 F.3d 661, 667 (9th Cir. 2012). “If at any time
15 before final judgment it appears that the district court lacks subject matter jurisdiction,
16 the case shall be remanded.” 28 U.S.C. § 1447(c).

17 Under 28 U.S.C. § 1332, a district court has original jurisdiction over a civil
18 action where (1) the amount in controversy exceeds the sum or value of \$75,000,
19 exclusive of interest and costs, and (2) the dispute is between “citizens of different
20 States.” “Although an action may be removed to federal court only where there is
21 complete diversity of citizenship... one exception to the requirement for complete
22 diversity is where a non-diverse defendant has been fraudulently joined.” *Hunter v.*
23 *Philip Morris USA*, 582 F.3d 1039, 1043 (9th Cir. 2009) (internal quotation marks and
24 citations omitted).

25 In general, there is a presumption against finding a fraudulent joinder, and
26 defendants who assert that a party is fraudulently joined carry a “heavy burden.”
27 *Hamilton Materials, Inc. v. Dow Chem. Corp.*, 494 F.3d 1203, 1206 (9th Cir. 2007)
28

1 (“Fraudulent joinder must be proven by clear and convincing evidence.”). Defendants
 2 must “show that the individuals joined in the action cannot be liable on any theory.”
 3 *Ritchey v. Upjohn Drug Co.*, 139 F.3d 1313, 1318 (9th Cir. 1998). It is not enough to
 4 show that a plaintiff is unlikely to prevail on her claim; a defendant must show by
 5 clear and convincing evidence that there is no “*possibility* that a state court would find
 6 that the complaint states a cause of action against any of the [non-diverse]
 7 defendants.” *Grancare, LLC v. Thrower by and through Mills*, 889 F.3d 543, 548 (9th
 8 Cir. 2018) (citing *Hunter*, 582 F.3d at 1046) (emphasis in original); *Hamilton*
 9 *Materials*, 494 F.3d at 1206; *Padilla v. AT & T Corp.*, 697 F. Supp. 2d 1156, 1158
 10 (C.D. Cal. 2009) (“[A] non-diverse defendant is deemed a [fraudulent] defendant if,
 11 after all disputed questions of fact and all ambiguities in the controlling state law are
 12 resolved in the plaintiff’s favor, the plaintiff could not possibly recover against the
 13 party whose joinder is questioned.”); *Marin v. FCA US LLC*, Case No. 2:21-cv-
 14 04067-AB (PDx), 2021 WL 5232652, at *3 (C.D. Cal. Nov. 9, 2021) (“In determining
 15 whether a defendant was fraudulently joined, the Court need only make a summary
 16 assessment of whether there is any possibility that the plaintiff can state a claim
 17 against the defendant.”). “Merely a ‘glimmer of hope’ that plaintiff can establish [a]
 18 claim is sufficient to preclude application of [the] fraudulent joinder doctrine.” *Id.*
 19 (quoting *Gonzalez v. J.S. Paluch Co.*, Case No. 2:12-cv-08696-DDP (FMOx), 2013
 20 WL 100210, at *4 (C.D. Cal. Jan. 7, 2013) (internal quotations omitted) (brackets in
 21 original)).

22 **III. DISCUSSION**

23 **A. Motion for Remand**

24 The parties do not dispute that the amount in controversy exceeds \$75,000.
 25 Rather, the sole issue is whether Defendant Quinonez is a fraudulently joined “sham
 26 defendant” added to destroy diversity. (See Docket No. 17 at 1). While Plaintiff
 27 named Quinonez in five causes of action, Plaintiff’s Motion only opposed removal
 28 based on Plaintiff’s fourth cause of action against Quinonez for defamation. (Docket

1 No. 13 at 6–8). As such, the Court will only address the issue of Quinonez’s
2 fraudulent joinder as it relates to Plaintiff’s cause of action for defamation.

3 First, Defendants contend that Plaintiff’s defamation allegations are insufficient
4 as alleged because they lack sufficient details regarding the circumstances of the
5 statement such as the individual who made the statement, to whom the statement was
6 made, whether it was written or spoken, the date of the statement, or the frequency of
7 the statement(s). (Docket No. 17 at 2). Defendants ask this Court to misapply the
8 standard for fraudulent joinder. As mentioned above, the standard is not whether the
9 claim would prevail on its merits, but rather, whether there is any possibility that
10 Plaintiff can state a claim in state court. *See e.g. Hill v. Airgas USA, LLC, et al.*, 2023
11 WL 9005648, at *2 (C.D. Cal. Nov. 3, 2023) (“The standard is not whether plaintiffs
12 will actually or even probably prevail on the merits, but whether there is a *possibility*
13 that they may do so.”) (citation omitted). Furthermore, “any doubts concerning the
14 sufficiency of a cause of action due to inartful, ambiguous, or technically defective
15 pleading must be resolved in favor of remand.” *Id.* (citing *Plute v. Roadway Package*
16 *Sys., Inc.*, 141 F. Supp. 2d 1005, 1008 (N.D. Cal. 2001)).

17 Here, Plaintiff alleges that from approximately August 2022² and continuing
18 “[f]or many months during Plaintiff’s employment, QUINONEZ and several ILB
19 employees who reported to QUINONEZ harassed Plaintiff and made false defamatory
20 statements about Plaintiff’s intelligence, work ethic and competence at doing his job.
21 Despite Plaintiff’s strong work ethic, QUINONEZ and his ILB employees knowingly
22

23 ² Defendants note that Plaintiff’s allegations include typographical errors
24 including inconsistently alleging that the defamation occurred starting in August 2020
25 and/or 2022 and misgendering Plaintiff. These factual errors may be cured with an
26 amended complaint and do not sufficiently negate Plaintiff’s claim for purposes of
27 establishing fraudulent joinder. *See e.g. Martinez v. Michaels*, 2015 WL 4337059, at
28 *5 (C.D. Cal. July 15, 2015) (“[A] removing defendant alleging fraudulent joinder
must do more than show that the complaint at the time of removal fails to state a claim
against the non-diverse defendant. Rather, the defendant must establish that plaintiff
could not amend his complaint to add additional allegations correcting any
deficiencies.”).

1 made false defamatory statements about Plaintiff being incompetent.” (Docket No. 1-
2 3 ¶ 12). The purpose of these false statements were to give “the appearance that
3 Plaintiff’s wrongful and illegal termination was justified.” (*Id.* ¶ 56). As a result of
4 these allegedly defamatory statements, Plaintiff suffered injury including to “his
5 personal and professional reputation.” (*Id.* ¶ 62). These allegations, while lacking in
6 detail, are more than sufficient to raise a possibility of a state law claim for
7 defamation.³ In fact, several district courts have found similar allegations sufficient to
8 justify remand. *See e.g. Sanchez v. Lane Bryant, Inc.*, 123 F. Supp. 3d 1238, 1243
9 (C.D. Cal. 2015) (holding that employee’s joinder of supervisor in a defamation claim
10 was not fraudulent where supervisor allegedly stated that employee was a poor
11 employee who was incompetent and unskilled to justify employee’s termination); *see*
12 *also Morales v. Gruma Corporation*, 2013 WL 6018040, at *4 (C.D. Cal. Nov. 12,
13 2013) (finding plaintiff’s claim of defamation against two of defendants’ officers were
14 not fraudulent joinders where defamatory statements were for purpose of justifying
15 termination and included assertions that plaintiff violated company policy and
16 engaged in illegal activity); *see also Webber v. Nike USA, Inc.*, 2012 WL 4845549, at
17 *6 (S.D. Cal. Oct. 9, 2012) (finding that allegation of defamation based on statement
18 that the plaintiff was terminated for “poor performance” was sufficient to establish a
19 “non-fanciful possibility that a California state court could conclude that Plaintiff”
20 alleged defamation claim). As such, the Court finds that Defendants have not met
21 their burden as to demonstrating the deficiency of the defamation allegations as to
22 Defendant Quinonez.

23 Second, Defendants assert that any allegedly defamatory statements about
24 Plaintiff’s work performance are opinions, which cannot be factually incorrect for
25

26 ³ To be clear, the Court does not opine on the merits of Plaintiff’s defamation
27 claim. Instead, the Court finds that for the narrow issue of remand, Defendants have
28 failed to satisfy their burden of demonstrating by clear and convincing evidence that
Plaintiff has no possibility of bringing a state law claim for defamation.

1 purposes of establishing a cause of action for defamation. (Docket No. 17 at 2).
2 “Because the statement must contain a provable falsehood, courts distinguish between
3 statements of fact and statements of opinion for purposes of defamation liability.
4 Although statements of fact may be actionable as libel, statements of opinion are
5 constitutionally protected.” *McGarry v. University of San Diego*, 154 Cal. App. 4th
6 97, 112 (Cal. App. 4th Dist. 2007). Defendants rely on *Jensen v. Hewlett-Packard*
7 *Co.*, 14 Cal. App. 4th 958, 965 (Cal. App. 4th Dist. 1993) to support their proposition
8 that an employer’s statements about an employee’s negative performance are
9 constitutionally protected opinions. *Jensen*, however, is distinguishable as it is limited
10 to statements made in the context of an employee’s performance evaluation. *See e.g.*
11 *Webber*, 2012 WL 4845549, at *6 (finding *Jensen*’s holding was limited to statements
12 made in an employee’s performance evaluation). Plaintiff has alleged, however, that
13 the allegedly defamatory statements were fabricated to justify his termination—not
14 made in a performance evaluation. (Docket No. 1-3 ¶ 56). Further, as mentioned
15 above, several courts in this circuit have similarly found that statements from a
16 supervisor about an employee’s work performance were sufficient to raise a possible
17 state law claim for defamation. *See e.g. Sanchez*, 123 F. Supp. 3d at 1243
18 (supervisor’s allegedly defamatory statements revolved around plaintiff’s poor work
19 performance); *Webber*, 2012 WL 4845549, at *6 (same). Accordingly, the Court
20 finds that Defendants failed to satisfy their burden on the grounds that Defendants
21 statements were protected opinions.

22 Third, Defendants contend the alleged defamatory statements are covered under
23 the common interest privilege pursuant to California Civil Code § 47(c) and thus
24 cannot be defamatory. (*Id.* at 2–5). Section 47(c) states, in relevant part, that a
25 communication is privileged if it is made “without malice, to a person interested
26 therein.” This privilege, however, is not absolute. Cal. Civ. Code § 47(c). A plaintiff
27 can overcome this privilege by proffering that a defendant had “actual malice.” *Noel*
28 *v. River Hills Wilsons, Inc.*, 113 Cal.App.4th 1363, 1370, 7 Cal.Rptr.3d 216 (2003).

1 Actual malice “is established by a showing that the publication was motivated by
2 hatred or ill will towards the plaintiff or by a showing that the defendant lacked
3 reasonable grounds for belief in the truth of the publication and therefore acted in
4 reckless disregard for the plaintiff’s rights.” *Id.*

5 In the present matter, Plaintiff alleges that Plaintiff “complained to his
6 supervisor QUINONEZ about the defamatory statements and harassment and asked
7 QUINONEZ to act to stop the harassment and defamation.” (Docket No. 1-3 ¶ 13).
8 Despite Plaintiff’s pleas, Quinonez “did not care to end the defamation and instead
9 treated Plaintiff with scorn and hostility and in a cold, curt and disdainful manner.”
10 (*Id.* ¶ 14). Plaintiff further alleges that the defamatory statements were “made with
11 hatred, ill will, and an intent to vex, harass, annoy, and injury Plaintiff in order to
12 justify the illegal and cruel actions of Defendants, and each of them, to cause further
13 damage to Plaintiff’s professional and personal reputations, to cause him to be fired, to
14 justify their firing.” (*Id.* ¶ 60). These allegations are sufficient to plead malice at the
15 motion to remand phase. *See e.g. Johnson v. Wells Fargo & Co., Inc.*, 2014 WL
16 6475128, at *9 (C.D. Cal. Nov. 19, 2014) (finding allegations “sufficient to plead
17 malice, at least for purposes of avoiding removal on the basis of fraudulent joinder”
18 while rejecting privilege argument under California Civil Code § 47(c) where
19 allegedly defamatory statements were made against employee in retaliation and to
20 justify wrongful termination); *see also Tipton v. Walmart Inc.*, 2021 WL 1561462
21 (C.D. Cal. Apr. 20, 2021) (remanding action where the plaintiff had alleged a
22 defamation claim against the non-diverse defendant and noting that “the standard to
23 establish fraudulent joinder is more exacting than under Rule 12(b)(6)”). Thus, the
24 Court finds that this argument also fails to satisfy Defendants’ burden of establishing
25 that Plaintiff has no possibility of bringing a defamation claim in state court.

26 **B. Attorneys’ Fees**

27 In conjunction with his Motion for Remand, Plaintiff seeks attorneys’ fees
28 pursuant to 28 U.S.C. § 1447(c). Under 28 U.S.C. § 1447(c), “[a]n order remanding

1 the case may require payment of just costs and any actual expenses, including attorney
2 fees, incurred as a result of the removal.” “Absent unusual circumstances, courts may
3 award attorney's fees under § 1447(c) only where the removing party lacked an
4 objectively reasonable basis for seeking removal. Conversely, when an objectively
5 reasonable basis exists, fees should be denied.” *Martin v. Franklin Capital Corp.*, 546
6 U.S. 132, 141, 126 S.Ct. 704, 163 L.Ed.2d 547 (2005).

7 Here, Plaintiff seeks a total judgment amount of \$3,800, which includes 9.5
8 hours with an hourly rate of \$400 for work that counsel spent preparing this motion,
9 “including the anticipated reply papers and attending the hearing.” (Docket No. 13 at
10 14). Plaintiff, however, fails to provide the Court with any information about
11 counsel’s years of experience practicing law, experience in this area of law, or the
12 number of hours it spent on each work product or anticipates for future work. *Hensley*
13 *v. Eckhart*, 461 U.S. 424, 433 (1983) (the party seeking attorneys fees bears the
14 burden to proffer evidence substantiating the hours worked and the rates requested).
15 In any event, the Court declines to award any attorneys’ fees because it does not find
16 that Defendants arguments are so objectively unreasonable as to warrant an award of
17 attorneys’ fees. *See e.g. Johnson v. Wells Fargo & Co.*, No. CV 14-06708 MMM
18 JCX, 2014 WL 6475128, at *13 (C.D. Cal. Nov. 19, 2014) (“Removal is not
19 objectively unreasonable solely because the removing party's arguments lack merit
20 and the removal is ultimately unsuccessful.”) (internal quotation marks and citations
21 omitted). The case law demonstrates that fraudulent joinder issues related to
22 defamation causes of action have been challenged a myriad of times and result in
23 different outcomes depending on the facts of each matter. Accordingly, the Court
24 **DENIES** Plaintiff’s request for attorneys’ fees.

25 **IV. CONCLUSION**

26 Because Plaintiff’s allegations raise at least a mere possibility that Plaintiff will
27 be able to state a claim for defamation in state court, the Court finds that Defendant
28 Quinonez is not a “sham defendant” whose joinder was fraudulent. As such, complete

1 diversity does not exist, and removal of this matter was improper. In light of the
2 foregoing, the Court **GRANTS** Plaintiff's Motion but **DENIES** Plaintiff's request for
3 attorneys' fees.

4
5 **IT IS SO ORDERED.**

6
7 Dated: January 4, 2024


HON. WESLEY L. HSU
UNITED STATES DISTRICT JUDGE